IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 731 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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STATE OF GUJARAT

Versus

GHANSHYAMPRASAD B SINDHI

Appearance:

1. Criminal Appeal No. 731 of 1991

MR ND GOHIL, ADDL.PUBLIC PROSECUTOR for Petitioner No. 1

MR DK MODI for Respondent No. 1-2 Absent

MR MD MODI for Respondent No. 1,2 Absent

NOTICE SERVED for Respondent No. 1,2

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 08/08/2001

ORAL JUDGEMENT

On 28.6.1995, the complainant alongwith his peon went to the shop of the respondent accused and took sample of "turmeric powder", which is found to be

adulterated. As per the report dated 14th August, 1985 of the public analyst, mentanil yellow and oil soluble dyes was detected. Thereupon the complainant filed complaint being Criminal case No. 521/86 before the Court of learned JMFC, Anand. Before the learned Magistrate, both the panchas turned hostile and the important witness peon was not examined. On these grounds as well as on the ground that LHA was not examined and the sanction was defective, the learned Magistrate acquitted the accused by judgement and order dated 28.6.1991. Against that order of acquittal, this appeal was filed by the State, which was admitted on 7.2.1994.

Though I am not agreeing with the reasoning assigned by the learned Judge for acquitting the accused on the ground of sanction, I am not inclined to interfere with the impugned order of acquittal because important witness peon was not examined. In such type of cases it would be difficult to rely upon the sole testimony of the complainant when panchas also turned hostile. That apart, it would not be proper for this Court to interfere with the impugned order of acquittal after lapse of more than 15 years. Considering the peculiar facts and circumstances of the case, I am not inclined to interfere with the impugned order of acquittal.

In view of the above, this appeal fails and is dismissed. Bail bonds stand cancelled.

(B.J.Shethna, J.)

*/Mohandas